

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

TRANSCRIPT OF RECORD.

Court of Appeals, District of Columbia

APRIL TERM, 1902.

No. 1222.

166

No. 13, SPECIAL CALENDAR.

MAURICE ULLMAN, PLAINTIFF IN ERROR,

vs.

THE DISTRICT OF COLUMBIA.

IN ERROR TO THE POLICE COURT OF THE DISTRICT OF COLUMBIA.

FILED MAY 19, 1902.

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

October
APRIL TERM, 1902.

January
No. 1222.

No. 13, SPECIAL CALENDAR.

MAURICE ULLMAN, PLAINTIFF IN ERROR,

vs.

THE DISTRICT OF COLUMBIA.

IN ERROR TO THE POLICE COURT OF THE DISTRICT OF COLUMBIA.

INDEX.

	Original.	Print.
Caption	<i>a</i>	1
Writ of error.....	1	1
Proceedings in police court in No. 219,815.....	2	2
Proceedings in police court in No. 219,353.....	3	3
Information No. 219,815..	4	4
Information No. 219,353...	5	5
Motion to quash No. 219,353.....	6	5
Motion for new trial, No. 219,353.....	7	6
Motion in arrest of judgment, No. 219,353.....	8	7
Motion to quash No. 219,815.....	9	7
Motion for new trial, No. 219,815.	10	8
Motion in arrest of judgment, No. 219,815.....	11	8
Recognizance on writ of error in No. 219,353.....	12	9
Recognizance on writ of error in No. 219,815.....	13	10
Bill of exceptions.....	14	11
Testimony of William Burke....	14	12
Charles W. Proctor.....	15	12
Motion to dismiss case and enter judgment for defendant....	18	14
Testimony of Maurice Ullman.....	19	15
S. J. Block	22	16
Clerk's certificate.....	27	19

In the Court of Appeals of the District of Columbia.

MAURICE ULLMAN, Plaintiff in Error, }
vs. } No. 1222.
THE DISTRICT OF COLUMBIA. }

a In the Police Court of the District of Columbia, April Term,
1902.

DISTRICT OF COLUMBIA }
vs. } No. 219,353, 219,815. Information for
MAURICE ULLMAN. } Violation of Police Regulations.

Be it remembered that in the police court of the District of Columbia, at the city of Washington, in the said District, at the times hereinafter mentioned, the following papers were filed and proceedings had in the above-entitled cause, to wit:

1 UNITED STATES OF AMERICA, ss:

The President of the United States to the Honorable Charles F. Scott, judge of the police court of the District of Columbia, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said police court, before you, between The District of Columbia, plaintiff, and Maurice Ullman, defendant, a manifest error hath happened, to the great damage of the said defendant, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Court of Appeals of the District of Columbia, together with this writ, so that you have the same in the said Court of Appeals, at Washington, within 15 days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Court of Appeals may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Richard H. Alvey,
Seal Court of Appeals, Chief Justice of the said Court of Appeals,
District of Columbia. the 5th day of May, in the year of our Lord
one thousand nine hundred and two.

ROBERT WILLETT,
Clerk of the Court of Appeals of the District of Columbia.

Allowed by—

R. H. ALVEY,
*Chief Justice of the Court of Appeals
of the District of Columbia.*

2 In the Police Court of the District of Columbia, April Term,
1902.

DISTRICT OF COLUMBIA	}	No. 219,815. Information for Violation of Police Regulations.
<i>vs.</i>		
MAURICE ULLMAN.		

Defendant arraigned April 15, 1902; con. April 19.

Ap'l 19.—Plea, not guilty; jury trial; continued to April 22;
verdict, guilty.

April 22.—Judgment, guilty; sentence, to pay a fine of ten dol-
lars and in default to be committed to the workhouse for the term
of thirty days.

April 19.—Consolidated and tried with No. 219,353 by order of
court upon agreement of counsel. Motion to quash information
filed, argued, and overruled.

Exceptions taken to rulings of court on matters of law and notice
given by defendant in open court, at the time of the several rulings,
of his intention to apply to a justice of the Court of Appeals, D. C.,
for a writ of error.

April 22.—Motions in arrest of judgment and for a new trial filed,
argued, and overruled.

Recognizance in the sum of \$100 entered into on writ of
error to Court of Appeals, D. C., upon the condition that in the event
of the denial of the application for a writ of error the defendant
will, within five days next after the expiration of ten days, appear
in police court and abide by and perform its judgment, and that in
the event of the granting of such writ of error the defendant will
appear in the Court of Appeals of the District of Columbia and abide
by and perform its judgment in the premises.

Edgar Baum, surety.

Thereupon proceedings stayed for ten days.

April 24.—Bills of exceptions filed, settled, and signed.

May 5.—Writ of error received from Court of Appeals, D. C.

MAY 17, 1902.

I hereby certify under the seal of this court that the foregoing is a true copy of the record of the proceedings had in the police court in the above-entitled case.

[Seal Police Court of District of Columbia.]

JOSEPH HARPER,
Dep. Clerk Police Court, Dist. of Columbia.

3 In the Police Court of the District of Columbia, March Term,
1902.

DISTRICT OF COLUMBIA	}	No. 219,353. Information for Violation of Police Regulations.
vs. MORRIS ULLMAN.		

Defendant arraigned April 4th, 1902; con. to April 9; 19.

April 19.—Plea, not guilty; con. 22; jury trial; continued to 22; verdict, guilty.

Ap'l 22.—Judgment, guilty; sentence, to pay a fine of ten dollars and in default to be committed to the workhouse for the term of thirty days.

Ap'l 4.—\$10 deposited in lieu of bonds for appearance in police court.

April 19.—Consolidated and tried with No. 219,815 by order of court upon agreement of counsel. Motion to quash information filed, argued, and overruled.

Exceptions taken to rulings of court on matters of law and notice given by defendant in open court, at the time of the several rulings, of his intention to apply to a justice of the Court of Appeals, D. C., for a writ of error.

April 22.—Motions in arrest of judgment and for a new trial filed, argued, and overruled.

Recognizance in the sum of \$100 entered into on writ of error to Court of Appeals, D. C., upon the condition that in the event of the denial of the application for a writ of error the defendant will, within five days next after the expiration of ten days, appear in police court and abide by and perform its judgment, and that in the event of the granting of such writ of error the defendant will appear in the Court of Appeals of the District of Columbia and abide by and perform its judgment in the premises.

Edgar Baum, surety.

Thereupon proceedings stayed for ten days.

April 24.—Bills of exceptions filed, settled, and signed.

May 5.—Writ of error received from Court of Appeals, D. C.

MAY 17TH, 1902.

I hereby certify under the seal of this court that the foregoing is a true copy of the record of the proceedings had in the police court in the above-entitled case.

[Seal Police Court of District of Columbia.]

JOSEPH HARPER,
Dep. Clerk Police Court, Dist. of Columbia.

4 In the Police Court of the District of Columbia, April Term,
A. D. 1902.

THE DISTRICT OF COLUMBIA, ss:

Andrew B. Duvall, Esq., city solicitor for the District of Columbia, by James L. Pugh, Jr., Esq., assistant city solicitor for the District of Columbia, who for the said District prosecutes in this behalf in his proper person, comes here into court and causes the court to be informed and complains that Maurice Ullman, late of the District of Columbia aforesaid, on the 28th day of March, in the year A. D. nineteen hundred and two, in the District of Columbia aforesaid and in the city of Washington, on 4½ — southwest, being then and there a certain licensed junk and second-hand dealer, to wit, the business of buying and selling second-hand personal property, and as such dealer did fail and neglect to make a report of articles purchased, to wit, sheet of copper, metal bell, water spigot, lead pipe, gas jet, to the major and superintendent of police, contrary to and in violation of the police regulations of the District of Columbia and constituting a law of the District of Columbia.

ANDREW B. DUVALL, Esq.,
City Solicitor for the District of Columbia,
By J. L. PUGH, JR.,
Assistant City Solicitor for the District of Columbia.

Personally appeared C. W. Proctor this 15th day of April, A. D. 1902, and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

[SEAL.]

W. H. RUFF,
Deputy Clerk of the Police Court
for the District of Columbia.

[Endorsed:] Col. —. No. 219,815. Information. District of Columbia vs. Maurice Ullman. 10-30. Violation of police regulations. P. M. S. Witnesses: C. W. Proctor, officer; Wm. Burke; def't, Sigmund J. Block. Filed April 15, 1902. Joseph Y. Potts, clerk police court, D. C.

5 In the Police Court of the District of Columbia, March Term,
A. D. 1902.

THE DISTRICT OF COLUMBIA, ss :

Andrew B. Duvall, Esq., city solicitor for the District of Columbia, by James L. Pugh, Jr., Esq., assistant city solicitor for the District of Columbia, who for the said District prosecutes in this behalf in his proper person, comes here into court and causes the court to be informed and complains that Maurice Ullman, late of the District of Columbia aforesaid, on the 27th day of March, in the year A. D. nineteen hundred and two, in the District of Columbia aforesaid and in the city of Washington, on 4½ street southwest, being then and there a certain licensed junk and second-hand dealer, and as such did fail and neglect to keep an accurate record of the purchase of certain second-hand articles on the books kept for such purpose, contrary to and in violation of the police regulations of the District of Columbia and constituting a law of the District of Columbia.

ANDREW B. DUVALL, Esq.,
City Solicitor for the District of Columbia,
By J. L. PUGH, Jr.,
Assistant City Solicitor for the District of Columbia.

Personally appeared C. W. Proctor this 4th day of April, A. D. 1902, and made oath before me that the facts set forth in the foregoing information are true, and those stated upon information received he believes to be true.

[SEAL.] JOSEPH HARPER,
Deputy Clerk of the Police Court for the District of Columbia.

[Endorsed:] Col. —. No. 219,353. Information. District of Columbia vs. Maurice Ullman. 10-30. Violation of police regulations. P. M. S. Witnesses: C. W. Proctor, officer; Wm. Burke; def't, Sigmund J. Block. Filed April 4, 1902. Joseph Y. Potts, clerk police court, D. C.

6 In the Police Court of the District of Columbia.

THE DISTRICT OF COLUMBIA	}	Information No. 219,353.
vs.		
MAURICE ULLMAN.		

Now comes the defendant, by his attorney, and moves the court to quash the information filed against him in the above-entitled cause, and for cause therefor assigns the following reasons :

- 1st. Because the information does not set forth any offense.
- 2nd. Because the information does not set forth any offense cognizable under the laws in force in the District of Columbia.
- 3rd. Because the information does not set forth any offense of which the police court has jurisdiction.

4th. Because the Commissioners of the District of Columbia were without power or authority to make or enforce the so-called police regulation under which this prosecution was instituted.

5th. Because the so-called police regulation under which the prosecution was instituted is unreasonable, oppressive, and in violation of the constitutional rights of the defendant.

6th. Because of other errors, defects, and omissions appearing upon the face of the record.

(S'g'd)

JOS. SHILLINGTON,
Attorney for Defendant.

[Endorsed:] District of Columbia vs. Maurice Ullman. No. 219,353. Motion to quash. Filed Apr. 19, 1902. Joseph Y. Potts, clerk police court, D. C.

7 In the Police Court of the District of Columbia.

THE DISTRICT OF COLUMBIA	}	No. 219,353.
vs.		
MAURICE ULLMAN.		

Motion for New Trial.

Comes now the defendant, by his solicitors, and moves the court to grant him a new trial in the above-entitled cause and assigns as reasons therefor:

1. Because the verdict is contrary to the evidence.
2. Because the evidence was insufficient to support the verdict.
3. Because the Commissioners of the District of Columbia had no authority to pass the regulation.
4. Because the information fails to set forth any offense.
5. Because the information fails to set forth any offense of which this court has jurisdiction.
6. Because the information is not based on any lawful police regulation in force in the District of Columbia.
7. Because of errors of law committed by the justice presiding in his rulings during the trial and on bills of exceptions to the rulings of the judge during the trial.

JOSEPH SHILLINGTON,
EDWIN FORREST,
Attorneys for Defendant.

[Endorsed:] District of Columbia vs. Maurice Ullman. Motion for a new trial. Filed Apr. 22, 1902. Joseph Y. Potts, clerk police court, D. C.

8 In the Police Court of the District of Columbia.

THE DISTRICT OF COLUMBIA	}	Information No. 219,353.
vs.		
MAURICE ULLMAN.		

Motion in Arrest of Judgment.

Comes now the defendant in the above-entitled cause, by his solicitors, and moves the court to arrest its judgment in the above-entitled cause and assigns as reasons therefor:

1. Because the information fails to set forth any offense.
2. Because the information fails to set forth any offense of which this court has jurisdiction.
3. Because the information is not based on any lawful police regulation in force in the District of Columbia.
4. Because of other errors and omissions appearing on the face of the record.

JOSEPH SHILLINGTON,
EDWIN FORREST,
Attorneys for Defendant.

[Endorsed:] No. —. The District of Columbia vs. Maurice Ullman. Motion in arrest of judgment. Filed Apr. 22, 1902. Joseph Y. Potts, clerk police court, D. C.

9 In the Police Court of the District of Columbia.

THE DISTRICT OF COLUMBIA	}	Information No. 219,815.
vs.		
MAURICE ULLMAN.		

Now comes the defendant, by his attorney, and moves the court to quash the information filed against him in the above-entitled cause, and for cause therefor assigns the following reasons:

- 1st. Because the information does not set forth any offense.
- 2nd. Because the information does not set forth any offense cognizable under the laws in force in the District of Columbia.
- 3rd. Because the information does not set forth any offense of which the police court has jurisdiction.
- 4th. Because the Commissioners of the District of Columbia were without power or authority to make or enforce the so-called police regulation under which this prosecution was instituted.
- 5th. Because the so-called police regulation under which the prosecution was instituted is unreasonable, oppressive, and in violation of the constitutional rights of the defendant.
- 6th. Because of other errors, defects, and omissions appearing upon the face of the record.

(S'g'd)

JOS. SHILLINGTON,
Attorney for Defendant.

[Endorsed:] District of Columbia vs. Maurice Ullman. No. 21-353. Motion to quash. Filed Apr. 19, 1902. Joseph Y. Potts, clerk police court, D. C.

10 In the Police Court of the District of Columbia.

THE DISTRICT OF COLUMBIA }
vs. } No. 219,815.
 MAURICE ULLMAN. }

Motion for a New Trial.

Comes now the defendant, by his solicitors, and moves the court to grant him a new trial in the above-entitled cause and assigns as reasons therefor:

1. Because the verdict is contrary to the evidence.
2. Because the evidence was insufficient to support the verdict.
3. Because the Commissioners of the District of Columbia had no authority to pass the regulation.
4. Because the information fails to set forth any offense.
5. Because the information fails to set forth any offense of which this court has jurisdiction.
6. Because the information is not based on any lawful police regulation in force in the District of Columbia.
7. Because of errors of law committed by the justice presiding in his rulings during the trial and on bills of exceptions to the rulings of the judge during the trial.

(S'g'd)

JOSEPH SHILLINGTON,
EDWIN FORREST,
Attorneys for Defendant.

[Endorsed:] District of Columbia *vs.* Maurice Ullman. Motion
for a new trial. Filed Apr. 22, 1902. Joseph Y. Potts, clerk police
court, D. C.

11 In the Police Court of the District of Columbia.

THE DISTRICT OF COLUMBIA }
 vs. } Information No. 219,815.
 MAURICE ULLMAN. }

Motion in Arrest of Judgment.

Comes now the defendant in the above-entitled cause, by his solicitors, and moves the court to arrest its judgment in the above-entitled cause and assigns as reasons therefor :

1. Because the information fails to set forth any offense.
2. Because the information fails to set forth any offense of which this court has jurisdiction.
3. Because the information is not based on any lawful police regulation in force in the District of Columbia.

4. Because of other errors and omissions appearing on the face of the record.

(S'g'd)

JOSEPH SHILLINGTON,
EDWIN FORREST,
Attorneys for Defendant.

[Endorsed:] No. —. The District of Columbia vs. Maurice Ullman. Motion in arrest of judgment. Filed Apr. 22, 1902. Joseph Y. Potts, clerk police court, D. C.

12

Recognizance.

In the Police Court of the District of Columbia, the 23rd Day of April, 1902.

On writ of error to the Court of Appeals of the District of Columbia.

THE DISTRICT OF COLUMBIA }
vs.
MAURICE ULLMAN. }

The defendant and Edgar Baum, his surety, acknowledge themselves to be indebted to the District of Columbia in the sum of one hundred dollars, lawful money of the United States, to be levied of their and each of their goods and chattels, lands and tenements, upon condition, nevertheless, that whereas the said defendant was, on the twenty-second day of April, 1902, convicted in the police court of neglecting to keep an accurate record of the purchase of certain second-hand articles in books kept for such purposes, and it was thereupon adjudged by said court that said defendant pay a fine of ten dollars, and in default be committed to the workhouse for the term of thirty days; and whereas the said defendant has taken exceptions to the rulings of the court upon matters of law in said trial, and having given notice in open court of his intention to apply for a writ of error to a justice of the Court of Appeals of the District of Columbia: Now, therefore, if said defendant shall, in the event of a denial of his application for said writ of error, within five days next after the expiration of ten days from the date hereof, appear in the police court and abide by and perform its judgments in the premises, and in the event of the granting of such writ of error he shall appear in the Court of Appeals of the District of Columbia and prosecute said writ of error and abide by and perform its judgments in the premises, then this recognizance to be void and of no force.

MORRIS ULLMAN.
EDGAR BAUM.

APRIL 23RD, A. D. 1902.

I certify that the above recognizance was acknowledged in open court the 23d day of April, 1902, and that the sufficiency of said

surety was approved by the judge of said police court. Witness my hand and the seal of said court.

[Seal Police Court of District of Columbia]

JOSEPH HARPER,
Dep. Clerk of Police Court, District of Columbia.

[Endorsed:] No. 219,353. Police court, District of Columbia. Recognizance on writ of error to the Court of Appeals, D. C. The District of Columbia vs. Morris Ullman. \$100. Edgar Baum, surety. Taken the 23rd day of April, 1902. Joseph Harper, dep. clerk police court, D. C.

Police Court, District of Columbia, 23rd Day of April.

Edgar Baum, being duly sworn, says that he is worth, over and above all his debts and liabilities, the sum of three thousand dollars in real estate situated in the District of Columbia; that a part of the real property so owned by him is described as follows: Premises 2014 7th street northwest, Washington, D. C., and is worth the sum of three thousand dollars; that he owns said property in fee-simple, free and unincumbered by deed of trust, mortgage, judgment, taxes, mechanics' liens, or otherwise, except a deed of trust to secure an indebtedness of sixteen hundred dollars; that he is not surety nor responsible on the bond or recognizance of any person whatsoever.

EDGAR BAUM.

Witnesses:

JOSEPH HARPER.

Subscribed and sworn to before me this twenty-third day of April, 1902.

JOSEPH HARPER,
Dep. Clerk Police Court, D. C.

13

Recognizance.

In the Police Court of the District of Columbia, the 23rd Day of April, 1902.

On writ of error to the Court of Appeals of the District of Columbia,

THE DISTRICT OF COLUMBIA }
vs.
MAURICE ULLMAN. }

The defendant and Edgar Baum, his surety, acknowledge themselves to be indebted to the District of Columbia in the sum of one hundred dollars, lawful money of the United States, to be levied of their and each of their goods and chattels, lands and tenements, upon condition, nevertheless, that whereas the said defendant was, on the twenty-second day of April, 1902, convicted in the police

court of the District of Columbia of engaging in the business as a licensed junk and second-hand dealer, — did fail and neglect to make a report of articles purchased, to wit, sheet of copper, metal bell, water spigot, lead pipe, gas jet, to the major and superintendent of police, and it was thereupon adjudged by said court that said defendant pay a fine of ten dollars, and in default be committed to the workhouse for the term of thirty days; and whereas the said defendant has taken exceptions to the rulings of the court upon matters of law in said trial and having given notice in open court of his intention to apply for a writ of error to a justice of the Court of Appeals of the District of Columbia: Now, therefore, if said defendant shall, in the event of a denial of his application for said writ of error, within five days next after the expiration of ten days from the date hereof, appear in the police court and abide by and perform its judgments in the premises, and in the event of the granting of such writ of error he shall appear in the Court of Appeals of the District of Columbia and prosecute said writ of error and abide by and perform its judgments in the premises, then this recognizance to be void and of no force.

MORRIS ULLMAN.
EDGAR BAUM.

APRIL 23RD, A. D. 1902.

I certify that the above recognizance was acknowledged in open court the 23rd day of April, 1902, and that the sufficiency of said surety was approved by the judge of said police court. Witness my hand and the seal of said court.

[Seal Police Court of District of Columbia.]

JOSEPH HARPER,
Dep. Clerk of Police Court, District of Columbia.

[Endorsed:] No. 219,815. Police court, District of Columbia. Recognizance on writ of error to the Court of Appeals, D. C. The District of Columbia vs. Maurice Ullman. \$100. Edgar Baum, surety. Taken the 23rd day of April, 1902. Joseph Harper, dep. clerk police court, D. C.

14 Filed Apr. 24, 1902. Joseph Y. Potts, Clerk Police Court,
D. C.

In the Police Court of the District of Columbia, April Term, 1902.

THE DISTRICT OF COLUMBIA	{	No. —. Violation of Police Regulations.
vs.		
MAURICE ULLMAN.		

Defendant's Bill of Exceptions.

Be it remembered that at the trial of this case before Charles F. Scott, Esq., judge of the police court, the plaintiff, to maintain and prove the issues upon its part joined, offered and gave to the court the following testimony and none other:

WILLIAM BURKE, a witness produced on behalf of the plaintiff, being duly sworn according to law, testified that he met Charles W. Proctor, the witness whose testimony hereinafter appears, on M street southwest, in the city of Washington, District of Columbia, on the morning of March 27, 1902, and by direction of Proctor the witness went to some place on First street southwest, in said city and District, to get some things, part of which, by direction of Proctor, witness was to take to the defendant's place to sell; that witness got a lot of junk at the place indicated by Proctor; brought it back in the push-cart to where Proctor was waiting for witness; that Proctor selected out a large sheet or roll of copper, a water spigot, a large metal bell, and a bent joint of lead pipe, and the articles were wrapped up in a piece of woman's dress, and by direction of Proctor witness took them off to the defendant's place, saw the defendant, and offered them for sale; that the defendant bought them and gave witness 28 cents for them; that Proctor was near by
15 when witness came out, and the latter gave the 28 cents to Proctor, and from near the defendant's place they went to 4 other junk dealers to sell other things, which the witness had obtained at Proctor's direction from the place on First street, and that the witness received \$1.50 for his day's work.

And thereupon, the examination of the witness being concluded, CHARLES W. PROCTOR was called and sworn as a witness on behalf of the plaintiff and testified that he was a member of the Metropolitan police force of the District of Columbia and was assigned to duty as an inspector of junk dealers; that he knows the witness Burke and had some dealings with him on the 27th day of March, 1902; that witness engaged Burke to go with him on that day to visit some of the junk dealers, and witness went with Burke to within a few hundred feet of Ullman's place, and Burke went into the place, taking quite a large sheet or roll of copper, a water spigot, a large metal bell, and a bent joint of lead pipe that is used under a sink in connection with water, and probably one or two more articles; that the articles were wrapped up on a part of an old blue and white dress and were put in the left-hand back corner of Burke's cart; that witness saw Burke go into the defendant's place and saw him come out, but did not see what occurred in there; that Burke took this package out of the left-hand corner of his cart and went into the defendant's place with it, and when he came out he only had a piece of the woman's dress in his hand and threw it into the cart without anything wrapped in it; that Burke gave witness 28 cents; that there was no report made of these articles to the major of police, and there was no record kept of them by the defendant; that the
16 witness has some reports from the defendant for different articles, but no report of these articles that were mentioned; that the defendant kept a book, but had no record of these articles when witness went there about three days afterwards; that the defendant had a license as a junk dealer and dealer in second-hand personal property.

And thereupon, the direct examination of said witness being concluded, the said witness on cross-examination was asked the following question by the defendant's attorney :

Q. Where did you get the second-hand articles that you sent to Ullman's place?

To which question, at the time the same was asked and before answer given, the plaintiff, by its counsel, objected on the ground that the same was immaterial; which objection was by the court sustained. To the ruling of the court in sustaining said objection the defendant then and there excepted, and the exception was noted by the justice on his minutes before the rendition of the judgment herein.

After the noting of said exception and making the same a part of the record, which is made a part hereof, the said witness was further asked: Q. Do you know where these goods were obtained? To the question, at the time the same was asked and before the witness answered, the plaintiff, by its counsel, objected on the ground that the same was immaterial; which objection was by the court sustained, and to the ruling of the court the defendant then and there excepted, and the exception was noted by the judge on his minutes before the rendition of judgment herein.

After the noting of said exception and making the same a part of the record, which is made a part hereof, the said witness further testified that he met Burke on the M Street bridge, near the old canal, southwest; that he did not give these different articles to the witness to sell, nor did he hand them to him, but saw them
17 before the witness Burke took them to the defendant's place; that Burke did not have the articles in his possession when the witness first met him; that witness met Burke several days before that; that the defendant's place was the first place Burke went to; that witness told Burke where to go to get these articles.

And thereupon the witness was asked the following question by the defendant's counsel :

Q. It was then your purpose when you told Burke to go with you to Ullman's place to go to these other places?

To which question, at the time the same was asked and before the witness answered, the plaintiff, by its counsel, objected; which objection was by the court sustained, and to the ruling of the court the defendant, by his counsel, then and there excepted, and the exception was noted by the judge on his minutes before judgment.

After the noting of said exception, which is made a part of the record, and also made a part hereof, the said witness further testified that he fixed up this package that Burke took to Ullman's, and that he told Burke where to get them; that he had met Burke several days before the 27th day of March, 1902, but does not know how many times he met him before the 27th day of March, but he thinks twice; that one of the detectives told witness about Burke, and that is how he came to meet him; that Burke had not worked for other detectives, to witness' knowledge; that witness took the 28 cents from Burke, but did not keep it; that witness sent Burke to other places that day.

And thereupon the witness was asked the following question :
Q. Did you supply him with the stuff that he sold to other places ?

18 To which question, at the time the same was asked and before the witness answered, the plaintiff, by its counsel, objected, and the objection was by the court sustained ; to which ruling the defendant, by his counsel, then and there excepted, and the exception was noted by the judge on his minutes before judgment herein.

After the noting of said exception and making the same a part of the record, which is also made a part hereof, the witness further testified that he sent Burke to other places, but kept an eye on Burke all the time ; that Burke got this stuff after witness met him ; that witness told him where to get it and Burke went after it pursuant to witness' directions ; that witness paid Burke for his services \$1.50, no more and no less ; that witness and Burke were together several hours.

The cross-examination of the witness being concluded, on redirect examination the witness testified that he saw the bell that Burke had in the defendant's place when witness went to examine the book ; that it was quite a large metal bell, larger than one that is used on the table, about four inches in diameter and larger than a cow-bell ; it was of old dull metal ; that it was a kind of a dark yellowish color.

The examination of said witness being concluded, the plaintiff, by its counsel, announced that it had no further or other testimony to offer.

The above being all the testimony offered on behalf of the plaintiff, the defendant, by his counsel, thereupon moved the court upon said testimony to dismiss the case and enter a judgment for the defendant on the grounds :

1. Because it does not appear that the defendant has violated any lawful police regulation of the District of Columbia.

2. Because the information does not set forth any offense.

19 3. Because the information does not set forth any offense cognizable under the laws in force in the District of Columbia.

4. Because the information does not set forth any offense of which the police court has jurisdiction.

5. Because the Commissioners of the District of Columbia were without power or authority to make or enforce the so-called police regulation under which this prosecution was instituted.

6. Because the so-called police regulation under which the prosecution was instituted is unreasonable, unusual, oppressive, and in violation of the constitutional rights of the defendant.

7. Because the information is not based on any lawful police regulation in force in the District of Columbia, and, in addition, because it does not appear that the defendant has violated any lawful police regulation which the Commissioners had power to make and pass.

But the judge overruled said motion and refused to dismiss the

case and enter judgment for the defendant, as requested ; to which ruling of the judge in refusing to grant a judgment in favor of the defendant on each and all of the grounds set forth and contended for, the defendant, by his counsel, then and there excepted, and the exception was noted by the judge on his minutes before judgment herein.

After the noting of said exception and making the same a part of the record, which is also made a part hereof, the defendant, to maintain and prove the issues upon his part joined, offered and gave to the court the following testimony and none other :

MAURICE ULLMAN, the defendants, being duly sworn, testified :

20 That he is a resident of this District and had been engaged in the business of a junk dealer and dealer in second-hand personal property for the past 22 years, and that at no time during said period had he ever been arrested for failure to comply with the law ; that he had never been arrested on any such charge as the one now made against him ; that he was in his place of business on the 27th day of March, this year ; that he does not know the witness Burke, and has no recollection of ever having seen him before this trial, and does not recollect of ever purchasing from Burke the articles mentioned ; that he keeps a book or record in his place, but did not keep a record of such articles as were described by the witness for the prosecution because it was not possible to do so, as he handled sometimes many hundreds of pounds of iron and such odds and ends of articles as is claimed that he purchased in this case, and to make a record of each and every article purchased and carry on witness' business would not be possible.

And thereupon the attorney for the defendant asked the witness the following question :

Q. In your business as junk dealer did you deem it necessary to make a record, as required by section 1 of article 1 of the regulations, of articles of the character such as is claimed that you purchased from the witness Burke, and make a report thereof to the major of police ?

To which question, at the time the same was asked and before answer given, objection was made thereto by the plaintiff, by its solicitor, and which objection was by the court sustained. To the ruling of the court in sustaining said objection the defendant, by his attorney, then and there excepted, and the exception was noted by the judge on his minutes before the rendition of judgment herein.

After the noting of said exception and making the same a part of the record, which is also made a part hereof, the said witness further testified that he knew the witness Proctor, and that he was 21 the policeman assigned for the inspection of junk dealers, and that said Proctor had frequently been in the — business of the defendant prior to the 27th day of March, 1902, and had seen in witness' place articles that witness had purchased as a junk dealer. And thereupon the attorney for the defendant asked said witness the following question :

Q. At any time prior to March 27, 1902, when the witness Proc-

tor was visiting your place, did he ever make any complaint to you of your failure to make report of such odds and ends and articles as the ones complained of in this case to the major of police or make a record of the same?

To which question, at the time the same was asked and before answer given, the plaintiff, by its counsel, objected, and the objection was by the court sustained. To the ruling of the judge in sustaining said objection the defendant, by his counsel, then and there excepted, and the exception was noted by the judge on his minutes before the rendition of judgment herein.

After the noting of said exception and making the same a part of the record, which is also made a part hereof, the direct examination of said witness being concluded, on cross-examination by the attorney for the plaintiff said witness testified that it was impossible for him to keep a record of these things; that he keeps a record of what money he pays out, but not what he pays it out for. Thereupon the said witness was asked by the attorney for the plaintiff the following question:

Q. Do you mean to say that it would be impossible for you, when you made these purchases of this man Burke and paid him 28 cents for a sheet of copper, a metal bell, and a spigot, and a piece of lead pipe, and a gas jet, to put them in a book, showing the person from whom you bought, a description of that person and these particular articles, and the price paid at the time that the sale was made to Mr. Burke?

To which question, at the time the same was asked and before the witness answered, objection was made by the defendant on the ground that the same was incompetent, immaterial, and irrelevant, and, further, because it was not a fair question to put to the witness, in view of his direct examination and the business done by him; which objection was by the court overruled, and the defendant, by his attorney, then and there excepted, and the exception was noted by the judge on his minutes before the rendition of the judgment herein.

After the noting of said exception and making the same a part of the record, which is also made a part hereof, the witness answered the same as follows:

I suppose that I could have made this entry when Burke was in there; that if I did make the sale I could have put it down and recorded it; but I would like to make a statement here if it is in order.

And thereupon the said witness was asked the further question:
Q. If you could make it in this case, why could you not make it in any case?

To which said witness replied that that was the statement that he wanted to make awhile ago; that it would be impossible in his business to do anything of that sort—that he should describe every article that he purchased and give the price and description of the person, &c.; that it would be impossible to do so, and he would, of course, at once have to quit the purchase of such articles; that wit-

ness had the word of Mr. Proctor and the other man that visited the place that it was not necessary; that the reason why he did not keep a record of the articles referred to by the witness was the reasons he has already stated—that it was physically impossible for him to do so.

23 The examination of said witness being concluded, the defendant called as a witness S. J. BLOCK, who, being duly sworn, testified as follows:

That for many years prior to 1893 he was a member of the Metropolitan police force of the District of Columbia, and for some years prior to said date was assigned to duty as an inspector of junk dealers; that he knows the defendant and has frequently been in his place of business; that he visited there frequently while witness was such inspector and knows the character of business that the defendant is engaged in and the character of articles that he purchases; that witness, while such inspector, frequently visited the other junk dealers doing business in the District of Columbia; that he was present during the giving of the testimony of the witnesses on behalf of the District, and heard and understood their testimony; that he heard the articles described as having been sold by Burke at the defendant's place; that the regulations as now exist respecting junk dealers was the same as existed during the time that witness was such inspector; that witness was familiar with the requirements of section 1 of article 1 of the police regulations relating to junk dealers and the record required therein to be kept of purchases made by such junk dealers and the report to be made thereof to the major of police.

And thereupon the said witness was asked by the attorney for the defendant the following question:

Q. During the time that you were detailed as such inspector, was it deemed necessary or usual that the junk dealers should report to the major of police purchases by them of the articles mentioned and described in the testimony of the witnesses for the District, and keep a record of the same?

To which question, at the time the same was asked and before the witness answered, objection was made by the plaintiff, by its attorney; which objection was by the court sustained, and to the
24 ruling of the judge the defendant, by his attorney, then and there excepted, and the exception was noted by the judge on his minutes before the judgment rendered herein.

After the noting of said exception and making the same a part of the record, which is also made a part hereof, the said witness was asked the following question:

Q. As a result of your knowledge and experience acquired of the business of the defendant and all other junk dealers in the District of Columbia, is it feasible, practical, or possible for them or the defendant, in the usual course of his business, to keep a record, as required by section 1 of article 1 of the police regulations, of the articles mentioned and described by the witnesses for the District and

make a report thereof to the major of police? To which question, at the time the same was asked and before the witness answered, the plaintiff, by its counsel, objected, and the objection was by the court sustained; to which ruling of the court the defendant, by his counsel, then and there excepted, and the exception was noted by the justice on his minutes before the rendition of judgment herein.

After the noting of said exception, making the same a part of the record, and which is also made a part hereof, the attorney for the defendant asked the witness the following question:

Q. During the time you were detailed as such inspector was the defendant and other junk dealers in the District required to keep a record, as required by section 1, article 1, of the regulations, of such articles as are mentioned in the testimony and information and make a record thereof to the major of police?

To which question, at the time the same was asked and before the witness answered, the plaintiff, by its counsel, objected, and the objection was by the court sustained. To the ruling of the
25 judge in sustaining said objection the defendant, by his counsel, then and there excepted, and the exception was noted by the justice presiding on his minutes before the rendition of judgment herein.

After the noting of said exception, making the same a part of the record, which is also made a part hereof, the defendant, by his counsel, announced the above as all the testimony on behalf of the defendant, and the plaintiff not giving any testimony in rebuttal, the defendant, by his attorney, on the whole case renewed his motion to the court to dismiss the case and enter judgment for the defendant on the grounds set forth in defendant's first motion; but the judge refused to grant said motion. To the ruling of the justice in refusing to grant said motion the defendant, by his counsel, then and there excepted, and the exception was noted by the judge on his minutes before the rendition of judgment herein.

After the noting of said exception and making the same a part of the record, which is also made a part hereof, the judge decided and held the defendant guilty; and thereupon, and before judgment rendered herein, the defendant filed his motion in arrest of judgment; but the judge overruled the same and fined and imposed the penalty by judgment on the defendant of a fine of ten dollars, and in default to be committed to the workhouse for the term of thirty days; from which judgment the defendant then and there noted an appeal. And thereupon, all the above exceptions having been taken and noted as above indicated, and the defendant having at the time of taking each and every one of said exceptions to the rulings of the court above set forth caused note of his intention to apply to the Court of Appeals of the District of Columbia for writ of error herein, and because all the matters and things hereinbefore recited are not matters of record, and in order that the defendant may have

26 this cause reviewed in the Court of Appeals on this the defendant's bill of exceptions, the defendant prays the court to sign and seal this the defendant's bill of exceptions, accord-

ing to the statute in such case made and provided, and it is accordingly done, now for then, this 24th day of April, 1902.

(S'g'd)

CHARLES F. SCOTT, [SEAL.]
Judge of the Police Court.

[Endorsed:] Filed Apr. 24, 1902. Joseph T. Potts, clerk police court, D. C.

27 In the Police Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss:
District of Columbia,

I, Joseph Y. Potts, clerk of the police court of the District of Columbia, do hereby certify that the foregoing pages, numbered from 1 to 27, inclusive, to be true copies of originals in causes No. 219,353 and 219,815, wherein The District of Columbia is plaintiff and Maurice Ullman defendant, as the same remain upon the files and records of said court.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, — the city of Washington, in said District, this 17th day — May, A. D. 1902.

[Seal Police Court of District of Columbia.]

JOSEPH Y. POTTS,
Clerk Police Court, Dist. of Columbia.

Endorsed on cover: District of Columbia police court. No. 1222. Maurice Ullman, plaintiff in error, vs. The District of Columbia. Court of Appeals, District of Columbia. Filed May 19, 1902. Robert Willett, clerk.